***THE HON'BLE SRI JUSTICE P.S. NARAYANA**

+W.P.No.12620 of 1997

% 13-07-2006

Mahabubabad Gram Panchayat,
rep., by its Upa-Sarpanch, Mr.Racha Maheswara Rao,
S/o Gopala Rao,
R/o 3-1-51, Old Street, Mahaboobabad,
Warangal District.

..... PETITIONER

Vs.

$ Government of Andhra Pradesh, rep., by Chief Secretary,
Secretariat, Hyderabad and others.

.....RESPONDENTS

<GIST:

>HEAD NOTE:

! Counsel for the petitioner : Mittakola Venkata Rama Rao

^ Counsel for respondents : Government Pleader for Panchayat Raj and Rural Development, and
Government Pleader for Municipal Administration.

?CASES REFERRED :

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.13840 of 2006

Dated:13.07.2006

Between:

Mahabubabad Gram Panchayat,
rep., by its Upa-Sarpanch, Mr.Racha Maheswara Rao,
S/o Gopala Rao,
R/o 3-1-51, Old Street, Mahaboobabad,
Warangal District.

..... PETITIONER

AND

Government of Andhra Pradesh, rep., by Chief Secretary,
Secretariat, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.13840 OF 2006

ORDER:

The Mahabubabad Gram Panchayat, represented by its Upa-sarpanch, filed the present writ petition praying for a Writ of Mandamus declaring the inaction of the respondents in upgrading the Mahabubabad Major Gram Pranchayat as Grade-I Municipality, on the basis of the income as well as population, under Section 2(42-a) and Section 3 of the A.P. Municipalities Act, 1965, and Rule 3 of A.P. Transitional Area and Smaller Urban Areas (Fixation of Criteria) Rules 1955, as well as the resolutions passed by the Mahabubabad Gram Panchayat Committee and also the recommendation of the Divisional Panchayat Officer, Mahabubabad as illegal, arbitrary, null and void, and consequently direct the respondents to upgrade the Mahabubabad Major Gram Panchayat as Grade-I Municipality, and pass such other

suitable orders.

2. Sri Mittakola Venkata Rama Rao, learned counsel representing the petitioner, had taken this Court through the criteria, which are to be satisfied for the purpose of upgrading, and would submit that the petitioner Gram Panchayat satisfies all the requirements. Despite the resolutions made, for the reasons best known, the Gram Panchayat in question is not being upgraded. Learned counsel also would submit in a way the Mahabubabad Gram Panchayat is not being upgraded though certain other Gram panchayats like Pulivendula, Armoor and Manuguru, etc., such cases were considered and upgraded, and though Mahabubabad Gram Panchayat satisfies all the criteria in a better way when compared to the said Gram Panchayats, the same is being discriminated. Hence, the learned counsel would maintain that suitable direction be issued in this regard.

3. The learned Assistant Government Pleader for Panchayat Raj, on the contrary, would contend that it is for the Government to take a decision in this regard and no writ, as prayed for, can be issued in the facts and circumstances of the case.

4. Mahabubabad Gram Panchayat, represented by its Upa-sarpanch, filed, the present writ petition aggrieved of the inaction on the part of the respondents in upgrading it as Grade-I Municipality, on the basis of the income as well as population, under Section 2(42-a) and Section 3 of the A.P. Municipalities Act, 1965 (hereinafter referred to as “the Act”, for the purpose of convenience) and Rule 3 of the A.P. Transitional Area and Smaller Urban Areas (Fixation of Criteria Rules 1995) (hereinafter referred to as “the Rules”), as well as the resolutions passed by the Mahabubabad Gram Panchayat Committee and the recommendation of Divisional Panchayat Officer, Mahabubabad. Several factual details had been narrated in paras 3,4,5 and 6 of the affidavit filed in support of the writ petition. The resolutions also had been referred to. It was also stated that on the basis of the resolutions submitted by the Panchayat

Secretary, the Divisional Panchayat Officer, vide his R.C.No.73/2005/A1 dated 7.2.2005, had addressed a letter to the District Collector, Warangal, fourth respondent, requesting to recommend to the Government to convert Mahabubabad Gram Panchayat into Grade-I Municipality. Again on 03.03.2006, the Gram Panchayat committee passed unanimous Resolution. It is also stated that the Sarpanch of the petitioner-Gram panchayat submitted a representation, vide R.C.No.1105/GM/A1 dated 10.05.2006, to the Chief Minister of the Government of Andhra Pradesh, requesting him for conversion of Mahabubabad Gram Panchayat as Grade-I Municipality after completion of the term of the present Committee. It is also stated that on 09.05.2006 the M.L.A.,
Sri Vem Narendar Reddy and the Sarpanch Smt.M.Sudha, had submitted a memorandum to the Hon'ble Chief Minister in person in the public meeting at Mudupugal of Mahabubabad Division. Several other factual details also had been narrated. Certain news items in relation thereto had also been referred to.

5. Section 2 of the Act deals with the definitions, and Section 2(42-a) of the Act defines 'transitional area' or 'a smaller urban area' as

> "In this Act unless the context otherwise requires, 'transitional area' or 'a smaller urban area' means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Act, subject to such rules as may be made in this behalf."

6. Rule 3 of the Rules deals with the Criteria for constitution of Municipalities and it reads as hereunder:

" 3. Criteria for constitution of Municipalities:- An area may be notified as Smaller Urban Area (Municipality) under Clause (43-A) of Section 2 of the Andhra Pradesh Municipalities Act, 1965, if the following criteria is satisfied.

(a) Population : Above 40,000
Provided that a local area with a lesser population may also be considered if it has acquired urban characteristics.

(b) Density of population per Sq. K.M. : 1000 and above
Provided that a local area with a lesser density of population may also be considered if it has acquired urban characteristics.

(c) Revenue : Rs.60.00 lakhs and more per annum
Provided that a local area with a lesser income may also be considered if it has acquired urban characteristics.

(d) Percentage of Employment in Non-Agricultural activities. : 60% and above

(e) Economic importance : Availability of market facilities and potentialities to attract industries.

(f) Other Factors. :Local area acquiring urban characteristics.

7. The main grievance ventilated by the learned counsel representing the writ petitioner is that though all the criteria are satisfied and the concerned had duly recommended, the Government is not taking a decision relating to the up-gradation of this Gram Panchayat into Grade-I Municipality. It is true that the up-gradation of other Gram Panchayats as Municipalities specifically had not been referred to in the affidavit filed in support of the writ petition. But, however, while making submissions, certain Gram Panchayats up-graded as Municipalities, had been submitted by the learned counsel.

8. Be that as it may, in the light of the representations said to have been made already, and also in the light of the recommendations said to have been made by the concerned, it is for the Government to take a decision in this regard, taking all the facts and circumstances into consideration. In the peculiar facts and circumstances, inasmuch as no positive direction as such can be granted, in the light of several factual

details narrated by the petitioner, the petitioner is given liberty to make a representation in detail to the Government narrating the facts, and the Government to consider the representations and take a decision, as expeditiously as possible.

9. Accordingly, the writ petition is disposed of. No order as to costs.

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13.07.2006

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